

REMARKS

Claims 20-39 are pending in the application and stand rejected. In particular, the following obviousness rejections under 35 U.S.C. § 103(a) are asserted:

(i) Claims 20, 27 and 34 are rejected as being unpatentable over Ortega et al. in view of Benitez et al.; and

(ii) Claims 21-26, 28-33, and 35-39 are rejected as being unpatentable over Ortega, Benitez and Natsev.

Applicants respectfully traverse the rejections as being legally deficient as a matter of law. Applicants have duly established through previous responses to Office Actions and filings of inventor affidavits under Rule 131 that the Benitez reference (or MediaNet publication) is *improperly* deemed by the Examiner to be prior art against the claimed inventions.

The Examiner finds, however, that the evidence submitted on September 12, 2006 by way of the 131 Declaration is insufficient to establish diligence from a date prior to the date of reduction to practice of the Benitez reference (or MediaNet reference). In support of this finding, the Examiner essentially finds that the evidence contains mere general allegations that are supported with sufficient statements of fact demonstrating that the reference was conceived or reduced to practice prior to the publication date of the MediaNet reference. Applicants respectfully disagree with this finding.

The MediaNet publication was published on November 6, 2000 by three co-authors, two of whom are co-inventors of the presently pending application and claims. U.S. Provisional Patent Application Serial No. 60/246,052 (the Provisional Application) was filed on November 6, 2000, which is the publication date of the Benitez (MediaNet) publication. This has been

properly established in the record. The commonality of the subject matters of the Benitez (MediaNet) publication and the Provisional Application can be readily gleaned from a cursory review of these documents.

In this regard, the Examiner should recognize that the filing of the Provisional Application in the United States on the same date of the MediaNet publication is unequivocal proof that shows a reduction to practice of the invention in this country before the date of the printed MediaNet publication. Indeed, the fact that the Provisional Application and MediaNet publication, which disclose the same/similar subject matter, were respectively filed and published on the same day clearly establishes that there was at the very least, a constructive *reduction to practice* of the (subject matter of the Provisional Application) *prior to the effective date of the MediaNet reference*. Otherwise, the Examiner would have to believe that the subject matter of the Provisional Application was conceived, reduced to practice, and filed in the Provisional Application and published in the MediaNet publication all on the same day. This is illogical and for the most part, practically impossible, under the given circumstances and facts of record. Therefore, Applicants respectfully assert that the evidence of record does support the antedating the MediaNet reference.

The Examiner further asserts that there were no indications as to which portions of Exhibit A (Provisional Application) of the Affidavit are related to various phrases in independent claims 20, 27 and 34 and that the elements of claims 20, 27 and 34 are not in Exhibit A. Applicants disagree, and the Examiner should note the following:


(1) On page 9 of the Office Action, the Examiner cites Benitez, section 3, page 6, and section 4.2 on page 9 to establish “transferring the low-level query .. “ as recited in claims 20, 27

and 34. The Examiner is directed to Section 7 (pp. 13-14) and section 7.2 (pp. 15-17) of the Provisional Application, which disclose the same subject matter as cited by the Examiner in the Benitez publication to establish the claimed features.

(2) On page 9 of the Office Action , the Examiner cites Benitez , section 4.1, FIG. 4, page 7 to establish the claimed “concept repository” as recited in 34, for example. The Examiner is directed to Section 7.1 and FIG. 4 (pp. 14-15) of the Provisional application, which discloses the same subject matter as cited by the Examiner in the Benitez publication to establish the claimed features.

Accordingly, for at least the above reasons, the Benitez reference is not properly deemed prior art, thereby rendering the obviousness rejections legally deficient. Withdrawal of the rejections is thus requested.

Respectfully submitted,



Frank V. DeRosa
Registration No. 43,584
Attorney for Applicants

Correspondence Address:

F. CHAU & ASSOCIATES, LLC
130 Woodbury Road
Woodbury, New York 11797
Telephone: (516) 692-8888
Facsimile: (516) 692-8889